THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 20393 of 1997

21-03-2007

Between:-

P. Amruthamma

Petitioner

And

The General Manager,
Singareni Collieries Co., Ltd.,
Kothagudem Collieries,
Khammam district and three others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 20393 of 1997

Oral order:

The petitioner is a widow of Pandilla Komaraiah who was working as Surface Trammer GDK, No.8 'A' Incline, Godavarikhani, Karimnagar district under the Singareni Collieries Company Limited.

The petitioner's husband died on account of an accident at his native village – Appannapet on 14-11-1996, an accident wholly unrelated to his employment, but while in service. The petitioner submitted a representation to the first respondent on 14-03-1997 seeking employment on compassionate basis. Alleging that the respondents have neither provided employment nor released the other benefits such as gratuity, provident fund etc., to the petitioner's family, the writ petition is filed

for a direction to the respondents to receive a fresh representation for providing compassionate appointment and for other benefits. In her representation dated 14-03-1997 to the first respondent, the petitioner has set out the seven (7) dependents of late Komaraiah including herself. She represented that her son Sadanandam was 13 years of age, ineligible for immediate employment and that age relaxation should be granted and Sadanandam employed or alternatively provided employment on his attaining the age of 18 years, in 2002.

In the counter affidavit filed, the Collieries had adopted the position that the petitioner is not eligible for compassionate appointment nor is any other member of the family. According to the counter, the Collieries had entered into a settlement with the recognized unions on 31-07-1997, under which *inter alia* on account of the death due to mine accident or for reasons other than mine accidents including medical unfitness certificate by the Board, if the male dependent of the concerned employee is 12 years and above but below 18 years, his name may be kept in the Live Roster and will be provided employment after attaining the age of 18 years, subject to suitability. During the period the male dependent is on the Live Roster, the female dependent would be paid the monthly monetary compensation which would cease once the male dependent is provided employment on attaining the age of 18 years. The monthly monetary

compensation of Rs.2,000-00 or Rs.3,000-00 per month (depending on death or disablement) would be withdrawn on employment being given.

The case of the respondents is that the husband of the petitioner had died not while on duty or on account of disability occurred while on duty nor in a mine accident, but wholly outside the scope of employment and therefore the settlement is inapplicable to the case of the deceased employee. It is also stated that the family dependents are not entitled to be provided employment except in the case of mine accident and the petitioner's husband had died wholly outside the course of employment. The petitioner's son was hardly 11 or 12 years of age and therefore providing employment even to the dependent would not arise. Regarding the allegation of the petitioner that the terminal benefits have not been released, the respondent denies this allegation. According to the respondent, under the Coal Mines Provident Fund, Rs.1,36,876-00 was paid by way of cheque; Family Pension Scheme was processed on 14-07-1997; Gratuity of Rs.49,800-00 was paid; Rs.3,653-00 towards Family Benefit Insurance Scheme (Accumulations) was paid by way of cheque dated 17-07-1997; Family Benefit Insurance Scheme (Insurance) of Rs.10,000-00 was paid through cheque on 24-07-1997; Group Insurance Scheme was processed on 14-02-1997; Janata Personal Accident Insurance Scheme was processed on 15-02-1997; Workers' Contribution was

settled and paid a sum of Rs.33,180-00 by way of cheque dated 14-02-1997 and Matching Grant of Rs.5,000-00 was settled and paid through cheque dated 12-03-1997. No other amounts are stated to be due. The respondents in conclusion disclaims any responsibility or obligation to provide compassionate appointment to the petitioner.

On a true and fair construction of the terms of settlement, the interpretation is compelling that compassionate appointment facility is available only on account of death occasioned in a mine accident or on physical disability arising during the course of employment or on death occurring during the course of employment or on account of the nature of the employment. Death occurring out of wholly natural causes or in circumstances wholly extraneous to the nature of employment or the course of employment, is not covered by the settlement entered into between the Collieries and the recognized Unions.

It is well settled that a scheme of compassionate appointment engendered by the employer is a condition precedent for either claim or grant of compassionate appointment. Compassionate appointment cannot be a benefit generated by judicial dictum, where the employer, in this case the Singareni Collieries Company Limited, does not have a scheme for compassionate appointment for the types of death as has occurred in this case in respect of the petitioner's husband. The petitioner cannot

claim compassionate appointment on the basis of any vague and general sentiments.

As other benefits due and payable on account of the death of petitioner's husband have been paid, the other grievances of the petitioner also do not subsist.

On the analysis above, there are no merits. The writ petition is accordingly dismissed. No costs.

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GODA RAGHURAM, J

Dated:21-03-2007
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